

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT HUNTINGTON

DAVID BRUCE ADKINS,

Plaintiff,

v.

CIVIL ACTION NO. 3:08-1396

JUDGE PRATT, et al.,

Defendants.

FINDINGS AND RECOMMENDATION

David Bruce Adkins has filed a document with the Court clearly styled “David Bruce Adkins v. Judge Pratt, et al.” in which, in a long, rambling, incoherent and bizarre “pleading” he says, in part, that he has “a lot to tell on the court.” The case is presently pending before the Court on plaintiff’s application and an affidavit seeking leave to proceed in forma pauperis under the provisions of 28 U.S.C. § 1915.

Examination of the application and affidavit submitted in support of the request to proceed in forma pauperis establishes that plaintiff is indigent and entitled to proceed herein without prepayment of fees. As a consequence of the fact that plaintiff proceeds in forma pauperis, and in accordance with requirements of 28 U.S.C. § 1915(e)(2)(B), the Court is required to dismiss a case if it determines that the action is “frivolous or malicious” or the complaint “fails to state a claim on which relief may be granted.” Examination of the complaint satisfies the Court that dismissal is required under these criteria.

As is apparent from the preceding, it would be difficult to summarize what has been presented here as a complaint. An examination of the document, however, leads to the conclusion that “fanciful,” “fantastic” and “delusional”¹ are terms that are appropriate.

RECOMMENDATION

On the basis of the foregoing, it is **RESPECTFULLY RECOMMENDED** that plaintiff’s application to proceed in forma pauperis be granted and that his complaint and this action be dismissed.

Plaintiff is hereby notified that a copy of these findings and recommendation will be submitted to the Honorable Robert C. Chambers, United States District Judge, and that, in accordance with the provision of Rule 72(b), Fed.R.Civ.P., the parties may, within fourteen days of being served with a copy of the Findings and Recommendation, serve and file written objections with the Clerk of this Court, identifying the portions of the Findings and Recommendation to which objection is made and the basis for such objection. The judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made in accordance with the provisions of 28 U.S.C. § 636(b) and the parties are advised that failure to file timely objections will result in a waiver of their right to appeal from a judgment of the district court based on such Findings and Recommendation. Copies of objections shall be served on all parties with copies of the same to Judge Chambers and this Magistrate Judge.

¹Neitzke v. Williams, 490 U.S. 319, 325-28 (1989).

The Clerk is directed to file this Findings and Recommendation and mail a copy of the same to plaintiff.

DATED: March 31, 2010



MAURICE G. TAYLOR, JR.
UNITED STATES MAGISTRATE JUDGE